

BIGGS FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2204
(Reference to printed bill)

1 Page 1, line 13, after the period insert "AN INTERESTED PARTY MAY ELECTRONICALLY
2 FILE THE AFFIDAVIT FOR CHANGE OF APPEAL TRIBUNAL UNDER THIS SUBSECTION."
3 Line 24, after "written" insert "OR ELECTRONICALLY TRANSMITTED"
4 Between lines 39 and 40, insert:
5 "Sec. 2. Section 23-672, Arizona Revised Statutes, is amended to read:
6 23-672. Appeals board; review of board decision
7 A. Within the department, an appeals board is established consisting
8 of four members. The director shall appoint the members of the appeals board
9 and shall designate one member to serve as chairman.
10 B. Hearings conducted by or at the direction of the appeals board
11 shall be conducted as provided by section 23-674 and other provisions of this
12 chapter. The department shall prescribe by rule the procedures for
13 petitioning for review, removal of cases to the board and appeals under
14 section 23-673. AN INTERESTED PARTY MAY FILE EITHER A WRITTEN OR ELECTRONIC
15 PETITION FOR REVIEW. Upon ON the filing of a petition for review, the
16 department shall prepare a complete record unless the parties stipulate
17 otherwise.
18 C. In any case in which a petition for review of an appeal tribunal or
19 hearing officer decision has been filed by an interested party, the appeals
20 board may remand the case to any appeal tribunal or hearing officer for
21 further proceedings or may review the matter on the basis of the record in
22 the case, take additional evidence or rehear the matter and affirm, reverse,
23 modify or set aside the decision of the appeal tribunal or hearing officer.
24 Upon ON notice to the interested parties, a petition for review may be

1 reviewed by one member of the appeals board designated by the chairman. If
2 an interested party objects to review by one board member, the matter shall
3 be heard by three members of the appeals board.

4 D. Unless a petition for hearing or review of a department
5 determination made under article 5 of this chapter is withdrawn, the appeals
6 board after affording the parties reasonable opportunity for a fair hearing
7 shall issue its decision.

8 E. Every decision of the appeals board shall be in writing. If the
9 decision is issued by three members of the appeals board, and the appeals
10 board is not unanimous, the decision of the majority shall control. The
11 minority may file a dissent from the decision, setting forth the reasons
12 ~~therefore FOR THE DISSENT~~. All interested parties shall be promptly notified
13 of the decision and the reasons ~~therefore FOR THE DECISION~~. Notice to the
14 parties of the decision shall be accompanied by instructions explaining the
15 procedure for requesting review as described in subsection F of this section
16 and clearly indicating the final date for filing a request for review.

17 F. A party dissatisfied with the decision under subsection E of this
18 section may file a request for review within thirty days from the date of the
19 decision, which shall be a written ~~OR ELECTRONIC~~ request and memorandum
20 stating the reasons why the appeals board's decision is in error and
21 containing appropriate citations of the record, rules and other authority.
22 ~~Upon ON~~ motion, and for good cause, the appeals board may extend the time for
23 filing a request for review. The timely filing of such a request for review
24 is a prerequisite to any further appeal. The appeals board shall notify all
25 parties of the filing of a request for review and shall allow fifteen days
26 from the date of the notice for any party to respond. Thereafter, the
27 appeals board shall issue a decision ~~upon ON~~ review affirming, modifying or
28 reversing its decision, or ordering the taking of additional testimony. All
29 parties shall be given written notice by mail of the decision ~~upon ON~~ review.

30 Sec. 3. Section 23-681, Arizona Revised Statutes, is amended to read:

31 23-681. Changing hearing date; good cause

1 A. The scheduled hearing date may be advanced or postponed if the
2 parties agree or on a showing of good cause.

3 B. Good cause exists if the request is reasonable or the circumstance
4 causing the request is beyond the control of the requesting party and failure
5 to grant the postponement would cause undue hardship to the requesting party.

6 C. The department of economic security shall adopt rules:

7 1. To set standards under which a party may be excused for failure to
8 attend a hearing for good cause.

9 2. TO ALLOW A PARTY WHO FAILED TO ATTEND A HEARING TO FILE A WRITTEN
10 OR ELECTRONIC REQUEST TO REOPEN THE HEARING."

11 Renumber to conform

12 Page 2, between lines 3 and 4, insert:

13 Sec. 4. Section 23-773, Arizona Revised Statutes, is amended to read:

14 23-773. Examination and determination of claims

15 A. A representative designated by the department as a deputy shall
16 promptly examine any claim for benefits and, on the basis of the facts found
17 by the deputy, shall determine whether or not the claim is valid. If the
18 claim is valid, the deputy shall also determine the week with respect to
19 which the benefit year shall commence, the weekly benefit amount payable and
20 the maximum duration of the benefit.

21 B. The deputy shall promptly notify the claimant and any other
22 interested parties of the determination and the reasons for the
23 determination. Except as provided in subsection D of this section, unless
24 the claimant or an interested party, within seven calendar days after the
25 delivery of notification, or within fifteen calendar days after notification
26 was mailed to the claimant's or interested party's last known address, files
27 an appeal from the determination, it shall become final, and benefits shall
28 be paid or denied in accordance with the determination. **THE DEPARTMENT SHALL
29 ADOPT RULES TO ALLOW AN APPEAL TO BE FILED IN WRITING, ELECTRONICALLY OR BY
30 TELEPHONE.** If an appeal tribunal affirms a determination of the deputy
31 allowing benefits, or the appeals board affirms a determination or decision
32 allowing benefits, the benefits shall be paid regardless of any appeal that

1 may thereafter be taken, but if that decision is finally reversed, no
2 employer's account shall be charged with benefits so paid.

3 C. ~~Upon~~ ON receipt of a request from an interested party for
4 information about a deputy's determination made pursuant to this section or
5 section 23-673, the department shall make available by memorandum or other
6 written document within five days after receipt of the request the following
7 information:

8 1. The facts considered and the facts relied on in making the
9 determination.

10 2. The specific statutes, regulations or other authority relied on in
11 making the determination.

12 3. The reasoning applied in making the determination.

13 D. Before the time for appeal as prescribed in subsection B of this
14 section has expired, an interested party may request a reconsidered
15 determination. The department shall examine the request and, within seven
16 calendar days, deny the request or issue a reconsidered determination. If
17 the department denies the request based on an alleged failure of the
18 interested party to make a timely response but the interested party
19 subsequently proves that the response was timely filed and received by the
20 department, the department shall report that result to the joint legislative
21 budget committee. The interested party may prove that a response was timely
22 filed by using evidence of fax records that documents the date and time when
23 a faxed response was transmitted and received by the department. A request
24 for reconsideration that is denied shall be treated as an appeal, and the
25 same procedure shall be followed as provided for in case of appeal from the
26 original determination. If a reconsidered determination is issued, the time
27 for appeal shall run from the date of issuance of the reconsidered
28 determination. The employer and the claimant shall each be permitted no more
29 than one request for reconsideration on each case.

30 E. Before the actual filing of an appeal under subsection B of this
31 section, but not later than the time permitted to appeal, the department on
32 its own motion may issue a reconsidered determination. After the time for

1 appeal has expired, but within one year after the issuance of the original
2 determination, the department with authorization of the unemployment
3 insurance program administrator may issue a reconsidered determination, on
4 the basis of newly discovered evidence that by due diligence could not have
5 been previously discovered, if no administrative or judicial review has
6 occurred or is pending on the original determination. If a redetermination
7 is based on fraud, the one year limitation on the issuance of
8 redeterminations does not apply.

9 F. Prompt notice in writing of any reconsidered determination under
10 subsection E of this section and the reasons for reconsideration shall be
11 given to all interested parties. An interested party may appeal within the
12 time prescribed under subsection B of this section, and the same procedure
13 shall be followed as provided for in case of an appeal from the original
14 determination."

15 Renumber to conform

16 Amend title to conform

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